

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRC No. 4985 of 2021

- Shashikant Koma @ Adarsh Singh, S/o Shri Tekchand Koma Aged About 21 Years R/o Village - Khaira, Police Station And District Balod (C.G.) C/o Aditya Nagar, Near Durgeshwar Mandir Police Station Mohan Nagar, District-Durg, Chhattisgarh.

---- Applicant

Versus

- State of Chhattisgarh, Through Station House Officer, Police Station - Mohan Nagar, District - Durg, Chhattisgarh.

---- Respondent

For Applicant	: Mr. Ishan Verma, Advocate.
For State/respondent	: Mr. Samir Oraon, Govt. Advocate.
For Objector	: Mr. Pawan Kumar Kashyap, Advocate.

Hon'ble Shri Justice Rajendra Chandra Singh Samant

Order On Board

28/09/2021

Heard.

1. This is the first bail application filed under Section 439 of the Code of Criminal Procedure, 1973 on behalf of the applicant for grant of regular bail to him as he is in custody in connection with Crime No.121/2021 registered at Police-Station-Mohan Nagar, District-Durg, Chhattisgarh for the offence punishable under Sections 341, 354 & 306 of IPC and Section 8 of POCSO Act, 2012.
2. It is submitted by learned counsel for the applicant, that the applicant has been falsely implicated in this case. He is in jail since 13.04.2021.

Charge-sheet has been filed. The case is pending for trial. FIR lodged against this applicant is totally false. As on the date of incident i.e. 10.4.2021, strict lock-down due to corona pandemic was continuing in District Durg, therefore, the story of prosecution that the victim was sexually harassed by this applicant when she was on her way to home from tuition is unbelievable. FIR was initially registered under Sections 341 & 354 of IPC only. Later on, at the stage of filing charge sheet, the offence under Section 306 IPC has been added. There is no evidence present to show that this applicant has, in any manner, abetted the deceased to commit suicide. Therefore, it is prayed that this applicant may be enlarged on regular bail.

3. On the other hand, learned counsel for the State opposes bail application and submissions made by learned counsel for applicant. It is submitted that dying declaration of deceased is available on record in which deceased has made clear statement that because of activities of this applicant, she felt harassed and frustrated and for this reason, she felt compelled to commit suicide. Hence, no case is made out for grant of regular bail to applicant.
4. The objector/complainant is personally present before this Court and he has objection in grant of bail to applicant. Learned counsel representing complainant also opposes prayer for grant of bail to applicant and submits that victim was continuously harassed by the applicant for quite some time. Father of victim and other witnesses have also made statements against the applicant regarding his criminal activities, therefore, it is not a fit case to grant bail to applicant.

5. I have heard learned counsel for both the parties and perused the case diary.
6. As per prosecution case, it is alleged that the victim was aged about 15 years and 7 months. It is alleged that about 5 to 6 months prior to the date of incident, the applicant used to make phone calls to minor victim from different numbers and harass her. On the date of incident i.e. 10.4.2021, the victim had been to take tuition and when she was returning back home, this applicant stopped her on the way caught hold of her hand and without her willingness took a selfie photograph on mobile phone. The applicant also threatened minor victim that if she will not talk to him, he will defame her by making selfi photograph viral. The victim came back home and narrated the incident to her father. On 11.4.2021, the victim poured kerosene on herself and immolated herself. She was admitted in the hospital for treatment where her statement was recorded by Head-Constable in which she stated reason for self immolating her that she was being continuously harassed by applicant by his activities. The victim expired on 12.4.2021.
7. Considered on the submissions.
8. The statement regarding probability of prosecution story shall be examined during trial. At present, there is clear statement present against this applicant in the form of dying declaration of the victim herself and also statement of other witnesses. Seriousness of offence is the level of mental harassmt that victim suffered, which led her to take an extreme step of putting an end to her life by setting herself ablaze. Hence, I am of this view that this is not a fit case for grant of

bail to the applicant.

9. Accordingly, bail application filed under Section 439 of Cr.P.C. is rejected.

Sd/-
(Rajendra Chandra Singh Samant)
Judge

Nisha